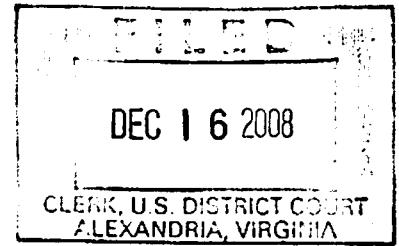


**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**



**BERNARD J. CARL,**  
**Plaintiff,**

**v.**

**BERNARDJCARL.COM, et al.,**  
**Defendants.**

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**Civil Action No. 1:07cv1128**

**ORDER**

On October 29, 2008, the United States Magistrate Judge designated to conduct a hearing in this matter filed a Report and Recommendation recommending (i) that Counts III and IV of plaintiff's amended complaint be dismissed and (ii) that Counts I, II and V either be dismissed or transferred to the United States District Court for the District of Columbia. On November 10, 2008, plaintiff, by counsel, filed objections to the Report and Recommendation, specifically objecting to the recommendation with respect to Counts I, II and V of the amended complaint. Plaintiff does not, however, object to the recommendation of dismissal with respect to Counts III and IV of the amended complaint.

Accordingly, for these reasons, and for good cause,

It is hereby **ORDERED** that the Court **ADOPTS** as its own the October 29, 2008 Report and Recommendation of the Magistrate Judge with respect to Counts III and IV of the amended complaint and those claims are accordingly **DISMISSED**.

It is further **ORDERED** that the matter is **REMANDED** to the Magistrate Judge for consideration of the various objections raised by plaintiff with respect to Counts I, II and V of the

amended complaint and for preparation of a prompt supplemental report and recommendation in this case. Among the specific issues to be addressed by the Magistrate Judge on remand is whether *Heathmount A.E. Corp. v. Technodome.com*, 106 F. Supp. 2d 860 (E.D. Va. 2000) — the case on which the Magistrate Judge relied — is still authoritative in light of the procedural circumstances and ultimate dismissal of the appeal filed in that matter following issuance of the district court's opinion. The Magistrate Judge should also consider whether *Airken v. Communications Workers of America*, 496 F. Supp. 2d 653 (E.D. Va. 2007) and *Bochan v. La Fontaine*, 68 F. Supp. 2d 692 (E.D. Va. 1999) compel a result contrary to dismissal with respect to one or more of the remaining counts.

The Clerk is directed to send a copy of this Order to the Magistrate Judge and all counsel of record.

Alexandria, VA  
December 16, 2008

  
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T. S. Ellis, III  
United States District Judge